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APPLICATION NO.	FILING DATE	FILING DATE FIRST NAMED INVENTOR		CONFIRMATION NO.	
09/778,310	02/07/2001	Stephen Memory	655.00875	5647	
7.	590 04/23/2002				
WOOD, PHILLIPS, VAN SANTEN, CLARK & MORTIMER SUITE 3800 500 WEST MADISON STREET			EXAMINER		
			PATEL, NIHIR B		
CHICAGO, IL	60661	ART UNIT	PAPER NUMBER		
		3743			
			DATE MAILED: 04/23/2002		

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary		Application	n No.	Applicant(s)				
		09/778,310)	MEMORY ET AL.				
		Examiner		Art Unit				
		Nihir Patel		3743				
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply								
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filled after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). Status								
1)	Responsive to communication(s) filed on	·						
2a)[This action is FINAL . 2b)⊠ Thi	is action is r	non-final.					
3)								
closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213. Disposition of Claims								
4) Claim(s) <u>1-30</u> is/are pending in the application.								
4a) Of the above claim(s) is/are withdrawn from consideration.								
5) Claim(s) is/are allowed.								
	6) Claim(s) is/are rejected.							
·	Claim(s) is/are objected to.							
•	Claim(s) <u>1-30</u> are subject to restriction and/or e	election requ	uirement.					
	on Papers The appeignation is objected to by the Everyna.	-						
9) The specification is objected to by the Examiner.								
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.								
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner.								
If approved, corrected drawings are required in reply to this Office action.								
12) The oath or declaration is objected to by the Examiner.								
Priority under 35 U.S.C. §§ 119 and 120								
13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).								
a) ☐ All b) ☐ Some * c) ☐ None of:								
1. Certified copies of the priority documents have been received.								
	2. Certified copies of the priority documents have been received in Application No							
	3. Copies of the certified copies of the priority documents have been received in this National Stage							
application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received.								
14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).								
a) ☐ The translation of the foreign language provisional application has been received. 15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.								
Attachment(s)								
2) Notic	e of References Cited (PTO-892) e of Draftsperson's Patent Drawing Review (PTO-948) nation Disclosure Statement(s) (PTO-1449) Paper No(s)			(PTO-413) Paper Not Patent Application (PTo				

Application/Control Number: 09/778,310

Art Unit: 3743

DETAILED ACTION

Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - Claims 1-12, drawn to method of fabricating, classified in class 29, subclass
 890.03.
 - II. Claims 13-30, drawn to aluminum heat exchanger apparatus, classified in class 165, subclass 175.

Group A (claims 13-28)
Group B (claims 29 and 30)

2. The inventions are distinct, each from the other because of the following reasons:

Inventions group I and II are related as apparatus and product made. The inventions in this relationship are distinct if either or both of the following can be shown: (1) that the apparatus as claimed is not an obvious apparatus for making the product and the apparatus can be used for making a different product or (2) that the product as claimed can be made by another and materially different apparatus (MPEP § 806.05(g)). In this case the fins and the tube of the apparatus claims 13-30 could be attached to the periphery other then brazing as specifically recited in method claims 1-12. The fins and the tube could be attached to periphery by welding or be bolted.

Inventions group A and B are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant

Application/Control Number: 09/778,310

Art Unit: 3743

case, the combination as claimed does not require the particulars of the subcombination as claimed. The subcombination has separate utility such as multi-port tubing whereas the combination does not.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

This application contains claims directed to the following patentably distinct species of the claimed invention. If the applicant elects either group A (claims 13-28) or group B (claims 29 and 30), the applicant must further

elect from species:

Figures 1-3 and 10-13 Figures 4,5, and 10-13 Figures 6-8 and 10-13

Figures 9-13

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after

Application/Control Number: 09/778,310

Art Unit: 3743

the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

A telephone call was made to Wm. A. VanSanten on April 18, 2002 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Supervisally Patent Examine